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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/293,011	04/16/99	GORDON	07442009001

LM02/0830

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EXAMINER

MILLER, J

ART UNIT

PAPER NUMBER

2711

DATE MAILED: 08/30/00

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

AD

Office Action Summary

Application No.
09/293,011

Applicant(s)

Gordon et al

Examiner
John W. Miller

Group Art Unit
2711



☒ Responsive to communication(s) filed on Jun 5, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-33 is/are pending in the application

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-33 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Burns et al (5,991,306), newly cited by the examiner.

As to claim 1, note the Burns et al reference which discloses a pull-based, intelligent caching system for a network system. Content service providers are connected to local service providers via an interactive distribution network. The local service providers facilitate the delivery of the content from the content provider to multiple subscribers. The local service providers schedule the delivery of frequently requested content from the content provider prior to a peak time when the subscribers are likely to request content. The content is downloaded during off-peak hours and cached at the local service providers for serving to the subscribers during the ensuing peak time. In this manner, the frequently requested content is already present at the local service providers and ready to be served to the subscribers when they actually request it. When the content is finally requested, the data is streamed continuously in a real-time manner for just-in-time rendering at the subscriber computer. Note Figure 2 and the associated disclosure. The

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claimed plurality of local servers... is met by the local service providers, the ISPs 56, the claimed plurality of links... is met by the links 66 and 68, and the claimed at least one storage server... is met by the content server 52.

Claim 2 is met by that discussed above.

As to claim 3, the reference clearly discloses a cable television environment consisting of cable headend servers, cable headends, and cable networks. In this embodiment, televisions are inherent.

As to claim 4, the ISPs 56 have servers which are designed to cache and serve the most frequently requested continuous data streams, such as video and audio data streams, and employ a disk array data storage system of finite capacity. Consequently, priority storage is considered inherent for data considered most 'frequently requested'.

As to claim 5 and 7, the reference anticipates plural local servers. As a consequence, a hardware manager is inherently associated with the content server 52 in order to facilitate the transmission of data over the network 54. That is, the network is described as the Internet or a cable network for distributing video content from cable headend servers, and therefore it is required that data transmission be managed in a manner which is recognized in these arts.

Claims 6 and 8 are met by that discussed above.

Claims 9-33 are met by that discussed above for claims 1-8.

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Response to Arguments

3. Applicant's arguments with respect to claims 1-33 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

5. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual

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who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Assistant Commissioner for Patents
Washington, D.C. 20231

on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) _____ - _____ on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

6. Any response to this final action should be:

(a) mailed to: Box AF

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Washington, D.C. 20231

(b) or faxed to: (703) 308-6306 or (703) 308-6296 for either formal communications (please mark "EXPEDITED PROCEDURE"), or informal or draft communications (please label "PROPOSED" or "DRAFT")

(c) or hand-delivered to: Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John W. Miller whose telephone number is (703) 305-4795. The examiner can normally be reached on Monday through Friday from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached at (703) 305-4380. The fax phone number for this Group is (703) 308-5359.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

John W. Miller

August 28, 2000


John W. Miller
Primary Examiner
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